

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division**

CSX TRANSPORTATION, INC.,  
individually and on behalf of NORFOLK  
& PORTSMOUTH BELT LINE  
RAILROAD COMPANY,

Plaintiff,

v.

Civil Action No. 2:18-cv-530-MSD-RJK

NORFOLK SOUTHERN RAILWAY  
COMPANY, *et al.*,

Defendants.

/

**NOTICE OF MOTION TO FILE DOCUMENTS UNDER SEAL**

Plaintiff CSX Transportation, Inc. (“CSX”), by counsel, hereby provides notice, pursuant to Local Rule 5(C), that it has moved the Court to seal portions of its unredacted Consolidated Opposition to Defendants’ Motions to Exclude CSX’s expert witness, Dr. Howard P. Marvel, together with Exhibits 1, 2, 3, 4, 5, and 6 thereto.

CSX specifically asks the Court to seal its unredacted Consolidated Opposition along with Exhibits 1, 2, 3, 4, 5, and 6 thereto, as these materials consist of, or relate to, documents or information the parties have designated as “Confidential” or “Confidential – Attorneys Eyes Only” (“AEO”) under the Stipulated Protective Order. ECF No. 79 ¶ 16.

As set forth in CSX’s Motion to Seal and accompanying Memorandum, the Consolidated Opposition and Exhibits 1, 2, 3, 4, 5, and 6 contain, discuss, and characterize highly confidential and sensitive information relating to the parties’ business strategy, cost structure, internal communications, and other proprietary information, the release of which could harm the parties.

Any party or non-party may submit memoranda in support of or in opposition to this Motion within seven (7) days designating all or part of such memoranda as confidential. Any information designated as confidential in a supporting or opposing memoranda will be treated as sealed pending a determination by the Court on the Motion to Seal. Any person objecting to this Motion must file an objection with the Clerk within seven (7) days after the filing of this Motion. If no objection is filed in a timely manner, the Court may treat the Motion as uncontested.

Dated: November 4, 2022.

Respectfully submitted,

**CSX TRANSPORTATION, INC.**  
*By Counsel*

/s/ Benjamin L. Hatch

Robert W. McFarland (VSB No. 24021)  
Benjamin L. Hatch (VSB No. 70116)  
V. Kathleen Dougherty (VSB No. 77294)  
Jeanne E. Noonan (VSB No. 87863)  
MC GUIREWOODS LLP  
World Trade Center  
101 West Main Street, Suite 9000  
Norfolk, Virginia 23510-1655  
Telephone: (757) 640-3716  
Facsimile: (757) 640-3930  
E-mail: [rmcfarland@mcguirewoods.com](mailto:rmcfarland@mcguirewoods.com)  
E-mail: [bhatch@mcguirewoods.com](mailto:bhatch@mcguirewoods.com)  
E-mail: [vkdougherty@mcguirewoods.com](mailto:vkdougherty@mcguirewoods.com)  
E-mail: [jnoonan@mcguirewoods.com](mailto:jnoonan@mcguirewoods.com)

J. Brent Justus (VSB No. 45525)  
Ashley P. Peterson (VSB No. 87904)  
MC GUIREWOODS LLP  
Gateway Plaza  
800 East Canal Street  
Richmond, Virginia 23219-3916  
Telephone: (804) 775-1000  
Facsimile: (804) 698-2026  
E-mail: [bjustus@mcguirewoods.com](mailto:bjustus@mcguirewoods.com)  
E-mail: [apeterson@mcguirewoods.com](mailto:apeterson@mcguirewoods.com)

**CERTIFICATE OF SERVICE**

I certify that on this 4th day of November, 2022, a true and correct copy of the foregoing was served on all counsel of record via Notice of Electronic Filing by filing with the Court's CM/ECF system.

/s/ Benjamin L. Hatch

Robert W. McFarland (VSB No. 24021)  
Benjamin L. Hatch (VSB No. 70116)  
V. Kathleen Dougherty (VSB No. 77294)  
Jeanne E. Noonan (VSB No. 87863)  
MC GUIREWOODS LLP  
World Trade Center  
101 West Main Street, Suite 9000  
Norfolk, Virginia 23510-1655  
Telephone: (757) 640-3716  
Facsimile: (757) 640-3930  
E-mail: [rmcfarland@mcguirewoods.com](mailto:rmcfarland@mcguirewoods.com)  
E-mail: [bhatch@mcguirewoods.com](mailto:bhatch@mcguirewoods.com)  
E-mail: [vkdougherty@mcguirewoods.com](mailto:vkdougherty@mcguirewoods.com)  
E-mail: [jnoonan@mcguirewoods.com](mailto:jnoonan@mcguirewoods.com)

J. Brent Justus (VSB No. 45525)  
Ashley P. Peterson (VSB No. 87904)  
MC GUIREWOODS LLP  
Gateway Plaza  
800 East Canal Street  
Richmond, Virginia 23219-3916  
Telephone: (804) 775-1000  
Facsimile: (804) 698-2026  
E-mail: [bjustus@mcguirewoods.com](mailto:bjustus@mcguirewoods.com)  
E-mail: [apeterson@mcguirewoods.com](mailto:apeterson@mcguirewoods.com)